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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 14th December, 1971:—

Bill No. XXXV-F of 1971

A Bill further to amend the Essential Commodities Act, 1955.

Be it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

1. This Act may be called the Essential Commodities (Amendment) Act, 1971.

Short title.

10 of 1955.

2. In section 3 of the Essential Commodities Act, 1955 (hereinafter referred to as the principal Act),—

Amendment of section 3.

(i) in sub-section (2), for clause (j), the following clause shall be substituted, namely:—

“(j) for any incidental and supplementary matters, including, in particular, the entry, search or examination of premises, aircraft, vessels, vehicles or other conveyances and animals, and the seizure by a person authorised to make such entry, search or examination,—

(i) of any articles in respect of which such person has reason to believe that a contravention of the order has been, is being, or is about to be, committed and any packages, coverings or receptacles in which such articles are found;

(ii) of any aircraft, vessel, vehicle or other conveyance or animal used in carrying such articles, if such person has reason to believe that such aircraft, vessel, vehicle or other conveyance or animal is liable to be forfeited under the provisions of this Act;

(iii) of any books of accounts and documents which in the opinion of such person would be useful for, or relevant to, any proceedings under this Act and the return of such books of accounts and documents to the person from whom they were seized after copies thereof or extracts therefrom, as certified by that person in the manner specified in the order, have been taken.”;

(ii) in sub-section (3B),—

(a) in the opening portion, for the words, “there shall be paid to that person such price for the foodgrains, edible oilseeds or edible oils as may be specified in that order having regard to—”, the words “there shall be paid as the price for the foodgrains, edible oilseeds or edible oils—” shall be substituted;

(b) in clause (i), for the word “and” occurring at the end, the word “or” shall be substituted;

(c) in clause (ii), for the words “the price”, the words “where no such price is fixed, the price” shall be substituted.

Amend-
ment of
section 5.

3. In section 5 of the principal Act, for the words and figure “the power to make orders under section 3”, the words and figure “the power to make orders or issue notifications under section 3” shall be substituted.

Act 47 of
1964 to be
made per-
manent.

4. The Essential Commodities (Amendment) Act, 1964, the duration of which extends up to and including the 31st day of December, 1971, is hereby made permanent, and accordingly that Act shall have effect subject to the modification that in section 1 of that Act, sub-section (3) shall be omitted.

Amend-
ment of
Section
12A.

5. In section 12A of the principal Act (inserted therein by section 2 of Act 47 of 1964), to sub-section (1), the following provisos shall be added, namely:—

“Provided that—

(a) every such notification issued after the commencement of the Essential Commodities (Amendment) Act, 1971, shall, unless sooner rescinded, cease to operate at the expiration of two years after the publication of such notification in the Official Gazette;

(b) every such notification in force immediately before such commencement shall, unless sooner rescinded, cease to operate at the expiration of two years after such commencement;

Provided further that nothing in the foregoing proviso shall affect any case relating to the contravention of a special order specified in any such notification if proceedings by way of summary trial have commenced before that notification is rescinded or ceases to operate and the provisions of this section shall continue to apply to that case as if that notification had not been rescinded or had not ceased to operate.”.

STATEMENT OF OBJECTS AND REASONS

Clause (j) of section 3(2) of the Essential Commodities Act, 1955 (hereinafter referred to as the Act) enables the Central Government, while making an order under section 3 of the Act, to provide for incidental and supplementary matters including the entry into and search of, premises and conveyances, and the seizure by an authorised person of articles in respect of which any contravention of such order has taken place or is about to take place. That clause does not expressly authorise the seizure of the coverings or receptacles in which the property is found or the conveyances used in carrying the property, although the Court is empowered to order their forfeiture to Government after trial. It is, therefore, proposed to amend that clause to empower the seizure of such coverings and receptacles, and to authorise the seizure of conveyances or animals used for the transport of offending goods when the person seizing the goods has reason to believe that the conveyance or animal is liable to be forfeited.

2. Sub-section (3B) of section 3 of the Act lays down the procedure for fixing prices of foodgrains, edible oilseeds or edible oils sold in pursuance of an order made under section 3(2)(f) of the Act. Such price is to be fixed having regard to—(i) the controlled price of foodgrains, edible oilseeds or edible oils fixed under that section or by or under any other law; and (ii) the price of the foodgrains, edible oilseeds and edible oils prevailing or likely to prevail during the post-harvest period in the area to which the order applies. The question of assessing the prevailing price or the price likely to prevail during the post-harvest period will arise only when there is no controlled price. It is, therefore, proposed to amend sub-section (3B) suitably to make this clear.

3. Section 5 of the Act enables the Central Government to delegate the power to pass orders under section 3 of the Act to a State Government and to other officers or authorities mentioned in that section. However, as sub-section (3A) of section 3 of the Act enables the issue of a notification, a doubt has arisen whether such a power to issue a notification can also be delegated under section 5. It is proposed to amend that section to make it clear that the power to issue such a notification can also be delegated.

4. The Essential Commodities (Amendment) Act, 1964, inserted section 12A in the Act. This section provides that the Central Government may, in the interests of production, supply or distribution of any essential commodity and other relevant considerations, by notification in the Official Gazette, specify any order made under section 3 of the Act to be a special order and when such a notification is issued, the contravention of that order may be tried summarily. The 1964-Act also inserted a new section 8A in the Criminal Law Amendment Act, 1952, empowering the Special Judge, trying an offence, specified under sub-section (1) of section 6 of the Criminal Law Amendment Act, 1952, alleged to have been committed by a public servant in relation to the contravention of any special order notified under section 12A of the Essential Commodities Act, 1955, to try such offence in a summary way. The period of

operation of the Essential Commodities (Amendment) Act, 1964 was originally limited up to the 31st December, 1966, but was extended up to the 31st December, 1971, by subsequent amending Acts. It is considered, after consultation with the State Governments and the Ministries of the Government of India, that section 12A of the Act and section 8A of the Criminal Law Amendment Act, 1952, should continue to operate even after the 31st December, 1971. Having regard to the fact that shortages of certain essential commodities are likely to persist for some time to come, it is considered desirable to place these two provisions permanently on the Statute Book instead of extending their period of operation from time to time. The Bill seeks to amend section 12A to provide that any notification issued under that section will have operation only for a period of two years, with suitable saving provisions.

NEW DELHI;

GHANSHYAMBHAI OZA.

The 12th December, 1971.

FINANCIAL MEMORANDUM

Under clause 2(ii), which seeks to amend sub-section (3B) of section 3 of the principal Act, it is proposed to make it clear that only the controlled price will be paid for any grade or variety of foodgrains, edible oilseeds or edible oils required to be sold to the Central Government, etc., in pursuance of an order made with reference to clause (f) of sub-section (2) of section 3 of that Act. Only in cases where no such price is fixed, the price for such grade or variety of foodgrains, edible oilseeds or edible oils prevailing or likely to prevail during the post-harvest period will have to be paid. Expenditure has to be incurred from the Consolidated Fund of India for the price payable for such commodities sold to the Central Government as aforesaid. An approximate estimate of the expenditure that is likely to be incurred therefor cannot be made at this stage as it will depend on the quantity required to be sold from time to time based on requirements.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Under section 3(2)(j) of the principal Act as proposed to be amended by clause 2(i) of the Bill, Government will have power to include in an order made under that section, the seizure of any packages, coverings or receptacles in which articles in respect of which the order has been contravened are found and the seizure of any aircraft, vessel, vehicle or other conveyance or animal used in carrying such articles if the person seizing has reason to believe that such aircraft, vessel, vehicle or other conveyance or animal is liable to be forfeited under the provisions of the Act.

Clause 4 of the Bill proposes to make the Essential Commodities (Amendment) Act, 1964 permanent. Under section 2 of that Act, a new section 12A has been inserted in the principal Act, under sub-section (1) of which the Central Government is empowered to specify, by notification in the Official Gazette, any order made under section 3 of the principal Act to be a special order for purposes of summary trial. The notification is to be issued only if the Central Government is of opinion that in the interests of production, supply or distribution of any essential commodity or trade or commerce therein and other relevant considerations, it is necessary that a contravention of any order made under section 3 of the principal Act in relation to such essential commodity should be tried summarily. It is not possible to specify the orders, the contravention of which should be tried summarily, in the Act itself. It will depend upon the circumstances of each case. It has, therefore, been provided in sub-section (1) of section 12A that every notification issued under that sub-section shall be laid before both Houses of Parliament. In addition, clause 5 of the Bill proposes to insert a proviso to the said sub-section to the effect that a notification issued under that section shall cease to operate at the expiration of two years after the publication of such notification in the Official Gazette.

In the circumstances aforesaid, the delegation of legislative powers above is of a normal character, being either relatable to matters of procedure or to issue of notifications for a limited period which would be laid before Parliament.

B. N. BANERJEE,
Secretary.